



100 South Jefferson Road
Whippany, New Jersey 07981
201/884-8350

DOCKET FILE COPY ORIGINAL

RECEIVED

SEP 13 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
Richard A. Askoff
Associate General Counsel

September 13, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Revision of Section 69.605 of
the Commission's Rules to
Allow Small Cost Settlement
Companies to Elect Average
Schedule Settlement Status

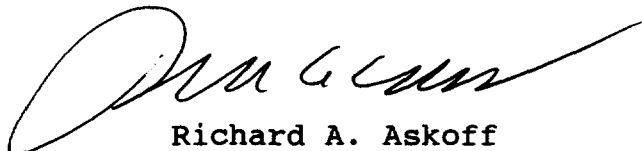
R. M. No.

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original
and eleven copies of the National Exchange Carrier Association,
Inc.'s Petition for Rulemaking in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the
duplicate copy of this letter furnished herewith for such
purposes and remitting same to bearer.

Very truly yours,



Richard A. Askoff

A/bas
closures

No. of Copies rec'd
List A B C D E

0410
CCB

RECEIVED

SEP 13 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Proposed Revision of Section 69.605 of)
the Commission's Rules to Allow Small) R. M. No.
Cost Settlement Companies to Elect)
Average Schedule Settlement Status)

PETITION FOR RULEMAKING

The National Exchange Carrier Association, Inc. (NECA) herein petitions the Commission to institute a rulemaking proceeding to revise Section 69.605 of the Commission's rules (47 C.F.R. § 69.605).¹

Section 69.605 currently restricts average schedule settlement methods to only those telephone companies that were "participating in average schedule settlements on December 1, 1982."² NECA proposed to revise this requirement in its comments in the proceeding established to develop "Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation," and has sought and been granted waivers of this limitation in earlier proceedings.³ The Commission found, however, that the proposed revision was "beyond the scope" of the Regulatory Reform

¹ The proposed rule revisions to § 69.605 are contained in Appendix A.

² 47 C.F.R. § 69.605(c).

³ See NECA's Comments filed August 28, 1992 in response to Notice of Proposed Rulemaking, CC Docket No. 92-135, 7 FCC Rcd 5023 (1992), and infra n. 11.

proceeding.⁴ NECA now requests that the Commission institute a new proceeding to revise its rules so that small exchange carriers (ECs) may elect average schedule status effective July 1, 1994.⁵

There are several reasons for changing the current rule. By permitting small ECs to convert to average schedule status, the Commission will relieve them and their ratepayers of the financial and administrative burden of conducting detailed cost separations studies. NECA estimates, for example, that had existing average schedule companies performed cost studies in 1993 they would have incurred about \$16 million in expenses.⁶

Allowing this option would simplify and reduce regulatory burdens on small telephone companies. As the telecommunications industry and the access charge plan have evolved since divestiture, the need for jurisdictional cost separation studies has lessened. Most states now do not require small telephone companies to perform separations studies to determine intrastate costs. Conducting cost studies solely to isolate the interstate portion of operations, therefore, may be an unnecessary burden for many small exchange carriers.

⁴ Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, Report and Order, CC Docket No. 92-135, 8 FCC Rcd 4562 (1993).

⁵ The dates shown in Appendix A illustrate the connection between the pool election and tariff effective dates. If the rulemaking is not concluded in time for December 31, 1993 tariff elections the dates should be altered.

⁶ This estimate is based on the assumption that the current 645 average schedule companies would have incurred a cost of about \$25,000 to perform an annual cost study.

The Commission has previously stated that the average schedule process resembles other incentive regulatory plans.⁷ The Commission has mandated price caps for the largest ECs⁸ and a few ECs have chosen that form of incentive regulation. The Regulatory Reform Report and Order provided additional optional incentive regulation proposals for non-price cap ECs.⁹ Granting NECA's petition will provide many of the same benefits to another group for exchange carriers.

The average schedule formulas closely simulate cost company settlements and reasonably reflect interstate access costs. The schedules incorporate the effects of separations and accounting reform, reflect average schedule company use of Part 32, use costing methodologies which closely parallel the cost study process, and provide settlements for new technologies.

The Commission has previously acknowledged the benefit of allowing small cost companies to convert to average schedule by

⁷ Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, CC Docket No. 87-313, 5 FCC Rcd 6820 (1990). In paragraph 277 the Commission stated "average schedule companies are already subject to a form of streamlined regulation that creates economic incentives similar to those we seek to foster by adopting price caps for other exchange carriers. Under the average schedule formulas, average schedule companies retain the benefits that accrue from increases in productivity and reductions in expenditures, and therefore, like price cap carriers, have economic incentives to operate as efficiently as possible."

⁸ Id. at 6787.

⁹ Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, Report and Order, CC Docket No. 92-135, 8 FCC Rcd 4562 (1993).

twice waiving the average schedule restriction.¹⁰ The Commission has also recognized that circumstances could arise that would justify further modification of this rule. In its 1987 Order granting small ECs an option to convert to average schedule status, the Commission noted "the possibility [exists] that changes in circumstances may, in the future, warrant additional opportunities for cost companies to convert to average schedule treatment."¹¹

Recognizing that many changes have now occurred in the industry, and that rate of return regulated companies now represent only approximately 7 percent of the industry revenue requirements, the Commission should amend its rules to permit small exchange carriers to review their settlement status and determine periodically whether to settle on the basis of average schedules. NECA proposes, as it did in the Regulatory Reform proceeding, that the Commission also establish certain requirements and conditions for ECs using this option.

Under the NECA proposed rule change the Commission would do away with the prohibition against ECs converting from cost to average schedule settlements. The new rule would allow study areas settling on cost that have fewer than 10,000 access lines to

¹⁰ See NECA's Proposed Waiver for Section 69.605(c) of the Commission's Rules, CC Docket No. 78-72, Phase I, Order, 2 FCC Rcd 3960 (1987) (Proposed Waiver) and Petitions seeking Average Schedules Settlements for Affiliated Cost Companies with 5,000 or Fewer Access Lines, Order, 3 FCC Rcd 6003 (1988).

¹¹ See Proposed Waiver, 2 FCC Rcd at 3960.

convert to average schedules after July 1, 1994.¹² NECA believes this threshold will minimize effects on current average schedule companies and NECA pool revenue requirements.¹³

NECA's rule proposal would allow eligible companies to first make the election on December 31, 1993, for an effective date of July 1, 1994. These conversions could then be reflected in NECA's April 1, 1994 annual access tariff filing.¹⁴ Further, a continuing opportunity to convert to average schedule status on a shorter notice would be allowed in subsequent tariff periods. After July 1, 1995, ECs under 10,000 access lines could convert to average schedules upon the same 60 days' notice now applicable for average schedule to cost conversion.

A time constraint to limit conversions back and forth between cost and average schedule status is included in NECA's recommendation. NECA proposes that any average schedule company electing to convert to cost settlements after the initial implementation date for this rule (July 1, 1994) would not be

¹² The 10,000 access line restriction should apply separately to each study area, regardless of company affiliation.

¹³ Setting the eligibility level at fewer than 10,000 access lines assures that pool revenue requirement changes are minimal. Based on 1993 estimates, the maximum initial increase in total NECA pool revenue requirements would be approximately \$4 million or 0.2 percent. That estimate assumes that all of the eligible cost companies that might project a settlement increase would do so, and that any company projecting a decrease would not make the election. This pool impact also does not reflect any savings that might be expected by reducing cost study expenses for future periods. A company size threshold, therefore, assures that the initial pool impacts would be minimal, and it would be expected that the effects of subsequent conversions would be smaller yet.

¹⁴ See note 5 supra.

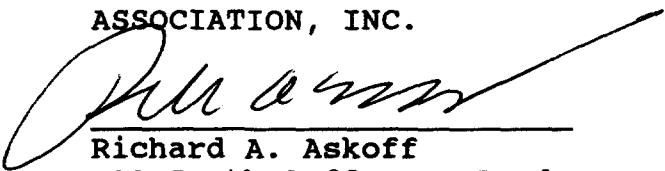
allowed to convert back to average schedule status for four years.¹⁵ Settlements that are based on actual costs enable companies to reflect their actual circumstances, however, and will continue to be the preferred method for many telephone companies. It would not be desirable, therefore, to prohibit an average schedule company from returning to cost status. The commitment to relinquish average schedule status for a specified time, however, appears to be reasonable.

NECA believes this proposed extension of average schedule eligibility would benefit both the industry and ratepayers. For the reasons stated above, NECA requests that the Commission initiate a proceeding to revise section 69.605 of its Rules to permit small cost telephone companies to convert to average schedule formula settlement status, subject to certain eligibility restrictions, as set forth in Appendix A.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

Pamela Kenworthy
Regulatory Associate Manager


Richard A. Askoff
100 South Jefferson Road
Whippany, New Jersey 07981

Its Attorney

September 13, 1993

¹⁵ NECA believes the four-year cost status commitment period will help assure that the conversion plan work as intended. The newly adopted 61.50 provisions also incorporate four-year commitment periods. See 47 C.F.R. § 61.50(d).

allowed to convert back to average schedule status for four years.¹⁵ Settlements that are based on actual costs enable companies to reflect their actual circumstances, however, and will continue to be the preferred method for many telephone companies. It would not be desirable, therefore, to prohibit an average schedule company from returning to cost status. The commitment to relinquish average schedule status for a specified time, however, appears to be reasonable.

NECA believes this proposed extension of average schedule eligibility would benefit both the industry and ratepayers. For the reasons stated above, NECA requests that the Commission initiate a proceeding to revise section 69.605 of its Rules to permit small cost telephone companies to convert to average schedule formula settlement status, subject to certain eligibility restrictions, as set forth in Appendix A.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

Pamela Kenworthy
Regulatory Associate Manager

/S/ Richard A. Askoff
Richard A. Askoff
100 South Jefferson Road
Whippany, New Jersey 07981

Its Attorney

September 13, 1993

¹⁵ NECA believes the four-year cost status commitment period will help assure that the conversion plan work as intended. The newly adopted 61.50 provisions also incorporate four-year commitment periods. See 47 C.F.R. § 61.50(d).

**PROPOSED PART 69 RULE MODIFICATIONS
GOVERNING AVERAGE SCHEDULES**

§ 69.605 Report and distribution of pool access revenues.

(a) Access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenue distributions in accordance with this Subpart.

(b) Association expenses incurred during the month that are allowable access charge expenses shall be reimbursed before any other funds are disbursed.

(c) Except as provided in paragraph (b) of this Section, payments to average schedule companies ~~that are~~ shall be computed in accordance with § 69.606 ~~shall be~~ and disbursed before any other funds are disbursed. For purposes of this Part, ~~a telephone company that was participating in average schedule settlements on December 1, 1992,~~ companies which had average schedule status prior to adoption of Section 69.605 (c) may continue to be average schedule companies. Additionally, telephone companies may elect average schedule status pursuant to Section 69.605(e) ~~shall be deemed to be an average schedule company except that any company that does not join in association tariffs for all access elements shall not be deemed to be an average schedule company.~~

(d) The residue shall be disbursed to telephone companies that are not average schedule companies in accordance with §§ 69.607 through 69.610.

(e) Any telephone company study area serving less than 10,000 access lines is eligible to make an election by December 31, 1993, for an effective date of July 1, 1994 to become an average schedule company. This election would apply again on December 31, 1994 for an effective date of July 1, 1995. Effective July 1, 1995, telephone company study areas under 10,000 lines may convert to average schedule status upon 60 days' notice to the Association if they have complied with the minimum four year cost settlement status *infra*. Any average schedule company study area converting to cost after July 1, 1994, must wait four years before returning to average schedule status.